

HONORABLE ROBERT S. LASNIK
UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

Rebecca Irene Fisheries, LLC,)
)
Plaintiff,) Case No.: 2:05-CV-00891 (RSL)
)
v.) **STIPULATION AND PROTECTIVE**
) **ORDER**
)
Carlos M. Gutierrez, Secretary of Commerce,)
)
United States Department of Commerce,)
)
National Oceanic and Atmospheric)
)
Administration; and the United States of)
)
America,)
)
Defendants.)

Subject to the approval of this Court, the parties hereby stipulate to the following protective order:

1. In connection with discovery proceedings in the underlying administrative action, the parties have designated certain documents, material testimony or other information derived therefrom, as "Confidential" under the terms of the Protective Order entered by Administrative Law Judge Edwin Bladen on August 18, 2003. Confidential information is information which has not been made public and which concerns or relates to the processes, operations, type or

work, or apparatus, or to the production, sales, shipments, purchases, transfers, identification of
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1 customers, inventories, amount or source of any income, profits, losses or expenditures of any
2 persons, firm, partnership, corporation, or other organization involved in this proceeding, the
3 disclosure of which information will have the effect of causing harm to the competitive position
4 of the person, firm, partnership, corporation, or to the organization from which the information
5 was obtained.

6
7 2. Some or all of the documents submitted in the underlying administrative action
8 that contain confidential information are now part of the administrative record in the present
9 case. To ensure against the improper disclosure of confidential information contained within the
10 administrative record, the parties hereby stipulate to this protective order.

11 3. Confidential documents have been designated by stamping copies of the
12 document produced to a party with the legend "CONFIDENTIAL." Stamping the legend
13 "CONFIDENTIAL" on the cover of any multipage document shall designate all pages of the
14 document as confidential, unless otherwise indicated by the producing party.

15 4. Testimony taken at a deposition, conference hearing or trial may have been
16 designated as confidential by making a statement to that effect on the record at the deposition or
17 other proceeding.

18 5. Confidential Information shall be disclosed only to the following persons:

19 a. parties to this action or to any enforcement proceeding, or an officer, director, or
20 employee of a party deemed necessary by counsel to aid in the prosecution,
21 defense, or settlement of such action;

22 b. Counsel of record for the parties to this proceeding, including secretaries,
23 paralegals and other staff persons employed by such counsel;
24
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1 c. Independent experts or consultants retained by the parties to assist in this action or
2 the prosecution, defense or settlement of this or any other enforcement
3 proceeding;

4 d. Deposition witnesses, during their depositions, or proceeding witnesses, where
5 necessary or helpful to their testimony.

6 e. the Court;

7 f. any other person as to whom the parties in writing agree.

8
9 6. Prior to the disclosure of any Confidential Information in accordance with
10 paragraph 4 of this Protective Order to any person other than counsel for the parties or the Court,
11 such person shall first be required to execute the Certificate attached as Exhibit A indicating his
12 or her agreement to comply with and be bound by the terms of this Protective Order. Intentional
13 violation of the terms of this Order constitutes contempt of a court order.

14 7. Prior to the disclosure of any Confidential Information to any individual or entity
15 other than in accordance with paragraph 4 of this Protective Order, the party intending to
16 disclose the information must first advise the opposing party. Reasonable notice of intent to
17 disclose confidential information must be given to counsel of record so that a party or entity
18 protected by this Protective Order has sufficient time to oppose such disclosure and seek
19 additional or different protection from the Court, if necessary.

20
21 8. Nothing herein shall impose any restrictions on the use or disclosure by a party of
22 material obtained by such party independent of discovery in this action, whether or not such
23 material is also obtained through discovery in this action, or from disclosing its own Confidential
24 Material as it deems appropriate.

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9. If Confidential Material, including any portion of a deposition transcript designated as Confidential is included in any papers to the Court, such papers shall be labeled “Confidential – Subject to Court Order” and filed under seal until further order of this Court.

10. In the event that any Confidential Material is used in any court proceeding in this action, it shall not lose its confidential status through such use, and the party using such shall take all reasonable steps to maintain its confidentiality during such use.

11. This Protective Order is entered solely for the purpose of facilitating the exchange of documents and information between the parties to this action without involving the Court unnecessarily in the process. Nothing in this Protective Order nor the production of any information or document under the terms of this Protective Order nor any proceedings pursuant to this Protective Order shall be deemed to have the effect of an admission or waiver by either party or of altering the confidentiality or nonconfidentiality of any such document or information or altering any existing obligation of any party or the absence thereof.

12. The terms of this Protective Order shall survive and remain in full force and effect after the termination of this litigation.

DATED this 25th day of October, 2005.

Mikkelborg, Broz, Wells & Fryer

/s/ Douglas M. Fryer
(authorized by e-mail)

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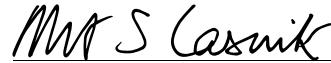
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Attorneys for Defendants

IT IS SO ORDERED

DATED October 27, 2005.



Robert S. Lasnik
United States District Judge

Presented by:

Mikkelborg, Broz, Wells & Fryer

/s/ Douglas M. Fryer (authorized by e-mail)

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/s/ James A. Maysonett

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